1879

11-569 Fuller

Nov. 21. 1879

Submitted

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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~275.~~ 55

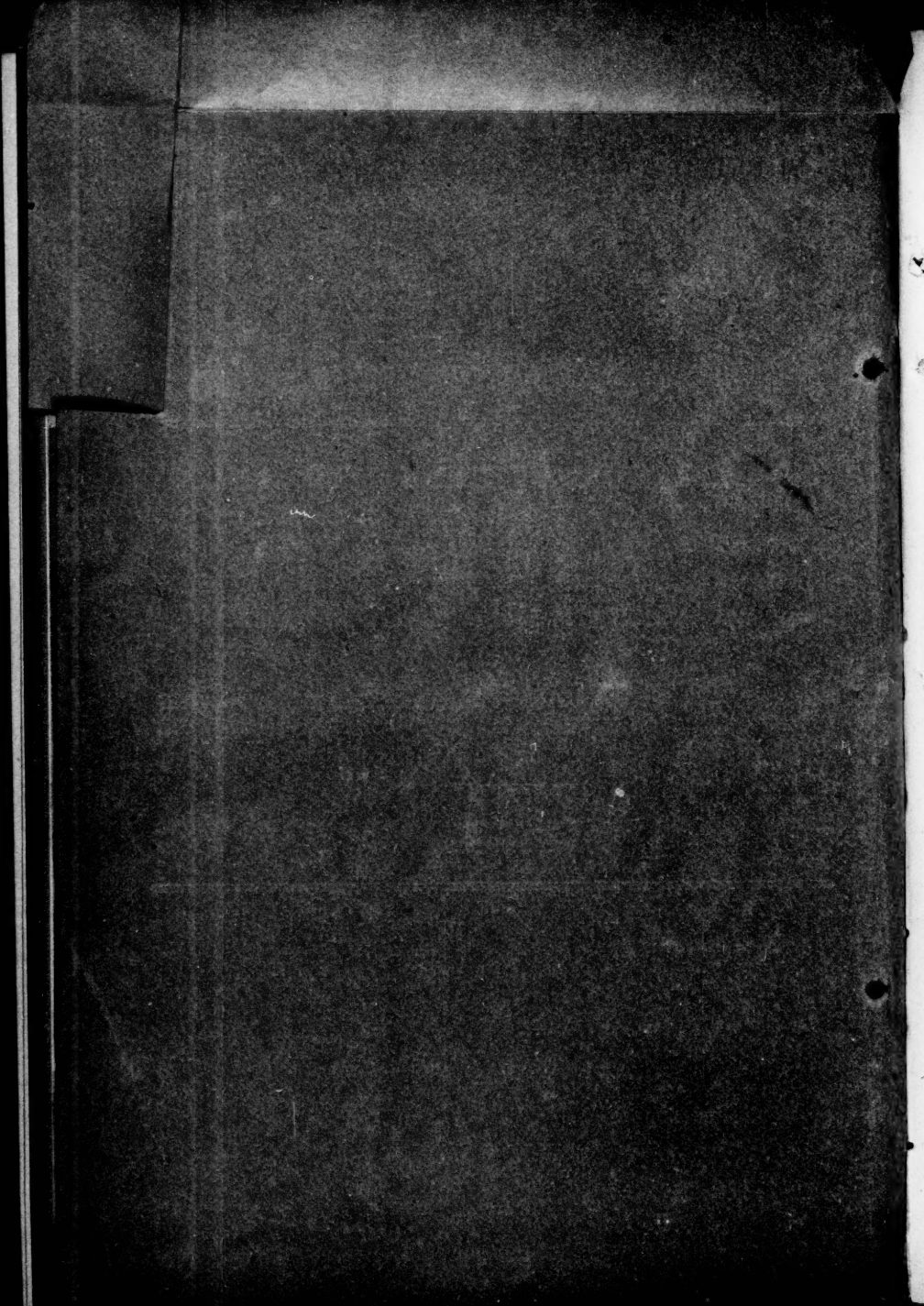
THE UNITED STATES, PLAINTIFFS IN ERROR,

vs.

JOSEPH N. DAWSON, UPTON WHITE, SAMUEL DYSON, AND DANIEL T. WHITE, SURVIVORS OF GEORGE W. DAWSON, DECEASED.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

FILED OCTOBER 17, 1876.



SUPREME COURT OF THE UNITED STATES.

No. 275.

THE UNITED STATES, PLAINTIFFS IN ERROR,

vs.

JOSEPH N. DAWSON, UPTON WHITE, SAMUEL DYSON, AND DANIEL T. WHITE, SURVIVORS OF GEORGE W. DAWSON, DECEASED.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

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1 THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States for the fourth circuit in and for the Maryland district, begun and held at the city of Baltimore on the first Monday in November (being the first day of the same month), in the year of our Lord one thousand eight hundred and seventy-five.

Present, the honorable William F. Giles, judge Maryland district; Archibald Stirling, jr., esquire, attorney; Edward Y. Goldsborough, esquire, marshal.

JAMES W. CHEW,
Clerk.

Among other were the following proceedings, to wit:

THE UNITED STATES
vs.
JOSEPH N. DAWSON, DANIEL T. WHITE, Samuel Dyson, James M. Dawson, jr., Upton Darby, survivors of George W. Dawson.

Be it remembered that heretofore, to wit, on the 21st day of October, in the year 1871, the United States of America, by Archibald Stirling, jr., esquire, United States attorney for the Maryland district, prosecuted and sued forth out of the circuit court here the writ of the United
2 States of America of summons directed to the marshal in the words and of the tenor following, to wit:

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

The President of the United States of America to the marshal for the Maryland district, greeting:

We command you that you summon George W. Dawson, Joseph N. Dawson, Upton Darby, James M. Dawson, jr., Samuel Dyson, & Daniel T. White, if they be found in your district, to appear before the judges of the circuit court of the United States of America for the district of Maryland at the United States court room in the city of Baltimore, on the first Monday of November next, to answer unto the United States of America of a plea of debt; and how you shall execute this precept you make known to us in our district court for the district aforesaid, and have you then and there this writ.

Witness the honorable S. P. Chase, Chief Justice of our Supreme Court, this first Monday of December, in the year of our Lord one thousand eight hundred and seventy.

Issued 23d day of October, 1871.

JAS. W. CHEW,
Clerk.

3 And the said United States of America, by their attorney afore said, on the day of prosecuting and suing forth the foregoing writ declared against the said George W. Dawson, Joseph N. Dawson, Daniel T. White, Samuel Dyson, James M. Dawson, jr., and Upton Darby in the plea aforesaid in form following, to wit:

In the circuit court of the United States for the fourth circuit in and for the Maryland district.

UNITED STATES OF AMERICA,
Maryland district fourth circuit:

The United States of America (the plaintiffs in this case), by Archibald Stirling, jr., their attorney, complain of George W. Dawson, Joseph N. Dawson, Upton Darby, James M. Dawson, jr., Samuel Dyson, and Daniel T. White, all of Montgomery County, in the State of Maryland, the defendants in this cause, who were summoned to answer the plaintiffs of a plea of debt; and demand of the said defendants the sum of fifty thousand dollars, lawful money of the United States, which they owe to, and unjustly detain from, the plaintiffs.

For that, whereas the said defendants heretofore, to wit, on the 2d day of May, A. D. 1863, at the said county and State of Maryland
4 by their certain writing obligatory, sealed with their respective seals (and now shown to the said circuit court) the date whereof is the day and year aforesaid, acknowledged themselves held and firmly bound unto the plaintiffs in the sum of fifty thousand dollars of said lawful money above demanded to be paid to the plaintiffs. Yet the defendants have not yet, nor hath any of them, paid the said sum of fifty thousand dollars above demanded or any part thereof to the plaintiffs; but so to do have hitherto wholly neglected and refused, to the damage of the said United States of America of one hundred dollars, and therefore they bring their suit.

ARCHIBALD STIRLING, JR.,
United States District Attorney for Maryland.

The writing obligatory referred to in the foregoing declaration is as follows, to wit:

UNITED STATES OF AMERICA.

TREASURY DEPARTMENT,
August 17th, 1871.

Pursuant to the act of Congress of the 22d February, 1849, I hereby certify that the annexed is a true copy of an original official bond of George W. Dawson, late collector of internal revenue for the fifth collection district of Maryland, dated May 2d, 1863, on file in this department.

5 In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the
[SEAL'S PLACE.] day and year first above written.

GEO. S. BOUTWELL,
Secretary of the Treasury.

Know all men by these presents that we, George W. Dawson, Joseph N. Dawson, Upton Darby, James M. Dawson, jr., Samuel Dyson, & Daniel T. White, all of the county of Montgomery, in the State of Maryland, are held and firmly bound unto the United States of America in the full and just sum of fifty thousand dollars, money of the United States; to which payment, well and truly to be made, we bind ourselves jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated this second day of May, in the year one thousand eight hundred and sixty-three.

The condition of the foregoing obligation is such, that whereas the

President of the United States hath, pursuant to law, appointed the said George W. Dawson collector of taxes, under an act entitled "An act to provide internal revenue to support the government and to pay interest on the public debt:

6 Now, therefore, if the said George W. Dawson has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

GEORGE W. DAWSON. [SEAL.]
JOSEPH N. DAWSON. [SEAL.]
UPTON DARBY. [SEAL.]
JAMES M. DAWSON, JR. [SEAL.]
SAMUEL DYSON. [SEAL.]
DANIEL T. WHITE. [SEAL.]

Sealed and delivered in the presence of—
JNO. T. FLETCHALL,
JOHN T. HEFFNER.

[50 cts. G. W. D., June 9.]

7 I, George W. Dawson, having been appointed to the office of collector of internal revenue of the United States within and for the fifth collection district of the State of Maryland, do solemnly swear that I have never borne arms against the United States; that I have given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever under any authority, or pretended authority, in hostility to the United States; that I have not yielded any support to any pretended government, authority, power, or constitution, within the United States, hostile or inimical thereto. And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

GEORGE W. DAWSON,

Sworn to and subscribed this second day of May, 1863, before me. Witness my hand and seal.

JNO. T. FLETCHALL, *J. P.* [SEAL.]

8 I, James G. Hening, clerk of the circuit court of the State of Maryland, for Montgomery County, do hereby certify that John Thomas Fletchall, gentleman, who administered the above oath, was at the time of doing so duly authorized to administer the same; and that full faith and credit are due to his official attestations.

In testimony whereof I have hereto set my hand and affixed the seal

of the circuit court for Montgomery County this fifth day of May, A. D. 1863.

[SEAL.] JAMES G. HENING,
Clk Circuit Court for Montgomery County.

UNITED STATES OF AMERICA,
District of , *ss:*

I, , hereby certify that the sureties within named, and who have signed the foregoing bond, are responsible and sufficient to insure the payment of the entire penalty named therein. Witness my hand and seal this .

TREASURY DEPARTMENT, SOLICITOR'S OFFICE,
June, 1863.

I have examined the foregoing bond and find it to be executed in proper form; and I approve the sureties thereto as sufficient.

EDWARD JORDAN,
Solicitor.

☞ The following instructions must be particularly observed and complied with, viz:

1st. The Christian names must be written in the body of the bond in full. and so signed to the bond.

2d. A seal of wax or wafer to be attached to each signature.

3d. Each signature must be made in the presence of two persons, who must sign their names as witnesses.

4th. Each surety must make and sign an affidavit of the amount he is worth after paying his just debts and deducting all exemptions by the laws of the State in which he resides, and liabilities of whatever nature, as per form herewith.

5th. A district judge or attorney of the United States, or a clerk of a court of record, under the seal and designation of the court, county, and State, must certify that the sureties are sufficient to pay the penalty of the bond.

6th. The affidavits of the sureties must be taken and signed before an officer authorized to administer oaths generally. The officer must certify that he administered the oaths. If the magistrate is not a judge of the United States court, his authority to administer oaths must be certified by the clerk of a court of record, having official knowledge of that fact.

7th. The oath of office must be administered to a collector by a magistrate authorized to administer oaths generally. The authority to be certified as directed under the 6th item.

8th. Bond to be dated.

9th. There must be five sureties to the bond.

10th. The bond must bear a revenue-stamp of one dollar ($1.00).

11th. Residence of principal and surety must be distinctly stated.

At which mentioned first Monday in November in the year last aforesaid, being the day of the return of the foregoing writ, comes into the circuit court here, the said United States, by their attorney aforesaid, and the marshal of the district aforesaid, to wit, Edward Y. Goldsborough, gentleman, to whom the foregoing writ was in form aforesaid directed, makes return thereof to the court here thus endorsed, to wit:

"Summoned all.

"E. Y. GOLDSBOROUGH,
"*U. S. Marshal.*"

11 And the said George W. Dawson, Joseph N. Dawson, Daniel T. White, Samuel Dyson, James M. Dawson, jr., and Upton Darby, being called, appear in court here by Thomas Donaldson, their attorney.

And thereupon the said plaintiffs, by their attorney aforesaid, pray that the said defendants may answer to the declaration of them, the said plaintiffs, in the plea aforesaid; whereupon it is ruled by the court here, that the said defendants answer to the declaration of the said plaintiffs in the plea aforesaid, or judgment will be rendered against them by default.

And afterwards, to wit, on the 23d day of February, in the year 1872, the said defendants, by their attorney aforesaid, file in court here the following plea, to wit:

In the circuit court of the United States for the fourth circuit in and for the Maryland district.

THE UNITED STATES OF AMERICA
vs.
GEORGE W. DAWSON, JOSEPH N. DAWSON, Upton Darby, James M. Dawson, jr., Samuel Dyson, and Daniel T. White.

And the said defendants, by Thomas Donaldson, their attorney, come and defend the wrong and injury when, &c., and pray a hearing of the writing obligatory aforesaid and the condition thereof, and they
12 are read to them in these words, to wit:

UNITED STATES OF AMERICA:

TREASURY DEPARTMENT, *August* 17, 1871.

Pursuant to the act of Congress of the 22d February, 1849, I hereby certify that the annexed is a true copy of an original official bond of George W. Dawson, late collector of internal revenue for the fifth collection district of Maryland, dated May 2d, 1863, on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

[SEAL.] GEO. S. BOUTWELL,
Secretary of the Treasury.

Know all men by these presents that we, George W. Dawson, Joseph N. Dawson, Upton Darby, James M. Dawson, jr., Samuel Dyson, & Daniel T. White, all of the county of Montgomery, in the State of Maryland, are held and firmly bound unto the United States of America in the full and just sum of fifty thousand dollars, money of the United States; to which payment, well and truly to be made, we bind ourselves jointly and severally, our joint and several heirs, executors, and admin-
13 istrators, firmly by these presents. Sealed with our seals and dated this second day of May, in the year one thousand eight hundred and sixty-three.

The condition of the foregoing obligation is such that whereas the President of the United States hath, pursuant to law, appointed the said George W. Dawson collector of taxes under an act entitled "An act to

provide internal revenue to support the government, and to pay interest on the public debt":

Now, therefore, if the said George W. Dawson has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge, all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge, all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise, it shall abide and remain in full force and virtue.

GEORGE W. DAWSON. [SEAL.]
JOSEPH N. DAWSON. [SEAL.]
UPTON DARBY. [SEAL.]
JAMES M. DAWSON, JR. [SEAL.]
SAMUEL DYSON. [SEAL.]
DANIEL T. WHITE. [SEAL.]

Sealed and delivered in the presence of—
JOHN T. FLETCHALL.
JOHN T. HEFNER.

[50 cts. G. W. D. June 9.]

14 I, George W. Dawson, having been appointed to the office of collector of internal revenue of the United States within and for the fifth collection district of the State of Maryland, do solemnly swear that I have never borne arms against the United States; that I have given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever under any authority, or pretended authority, in hostility to the United States; that I have not yielded any support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

GEORGE W. DAWSON.

Sworn to and subscribed this second day of May, 1863, before me. Witness my hand and seal.

JNO. T. FLETCHALL, *J. P.* [SEAL.]

15 I, James G. Hening, clerk of the circuit court of the State of Maryland for Montgomery County, do hereby certify that John Thomas Fletchall, gentleman, who administered the above oath was, at the time of doing so, duly authorized to administer the same; and that full faith and credit are due to his official attestations.

In testimony whereof I have hereunto set my hand and affixed the

seal of the circuit court for Montgomery County this fifth day of May, A. D. 1863.

[SEAL.] JAMES G. HENING,
Clk Circuit Court for Montgomery County.

[5 cts. G. W. D. June 9.]

UNITED STATES OF AMERICA,
District of , *ss:*

I, , hereby certify that the sureties within named, and who have signed the foregoing bond, are responsible and sufficient to insure the payment of the entire penalty named therein.

Witness my hand and seal this day of , 18 .

TREASURY DEPARTMENT, SOLICITOR'S OFFICE,
June, 1863.

I have examined the foregoing bond and find it to be executed in proper form; and I approve the sureties thereto as sufficient.

EDWARD JORDAN,
Solicitor.

16 Which being read and heard, the said defendants say that the said plaintiff the action aforesaid thereof against them ought not to have or maintain; because they say the said George W. Dawson, in the condition of the said writing obligatory mentioned did, as collector of taxes, appointed under the act in said bond recited, at all times truly and faithfully execute and discharge all the duties of the said office according to law, and did also justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which have at any time come into his possession. And further, that each and every deputy collector appointed by said collector, George W. Dawson, has truly and faithfully executed and discharged all the duties of such deputy collector according to law, according to the force, form, and effect of the condition aforesaid, to wit, at the county aforesaid.

TH. DONALDSON,
Att'y for D'f'd'ts.

And thereupon the said defendants, by their said attorney, pray that the said plaintiffs may reply to the plea of the said defendants in the action aforesaid.

Whereupon it is ruled by the court here that the said plaintiffs reply to the plea of the said defendants in the action aforesaid, or judg-
17 ment will be rendered against them by default.

And thereupon the said United States of America by their said attorney, pray leave to imparle until the first Monday of April next, and then to reply to the plea of the said defendants in the action aforesaid; and they have it, the same day is given to the said defendants then and there, &c.

At which said first Monday in April in the year 1872 come again into the circuit court here the parties aforesaid by their attorneys aforesaid.

Whereupon the said United States by their said attorney on the 27th day of April, 1872, filed in court here the following replication, to wit:

In the United States circuit court for Maryland.

UNITED STATES
vs.
GEORGE W. DAWSON, JOSEPH A. DAWSON, et al.
} Suit on bond of May 2, '63.

And the said plaintiffs say, as to the plea of the said defendants by them above pleaded, that they ought not, by reason of anything in said plea alleged, be precluded from maintaining their action aforesaid thereof against said defendants; because by way of replication
18 to said plea, and for assigning a breach of the said writing obligatory, they say that after the making of the said writing obligatory, and before the institution of this suit, the said George W. Dawson was for a long time, to wit, from the said 2d day of May, A. D. 1863, until December 9th, 1864, at the district of Maryland, the collector of internal revenue for the fifth collection district of said State; and afterwards, to wit, on the said 9th day of December, A. D. 1864, became and was, as such collector, indebted to the United States in the sum of forty-seven thousand and nineteen dollars and seventy-one cents, current money, said sum being the final balance chargeable to him upon his account as collector with the United States, after a due deduction of all credits to which he was entitled thereupon. Nevertheless, the said George W. Dawson did not then and there pay, nor has he since paid, the said sum or any part thereof to the said United States, although often requested so to do, but still owes the same unto them. And so the plaintiffs in fact say that the said George W. Dawson hath not faithfully accounted for and paid over to the United States, in compliance with the regulations of the Treasury, all the public moneys which came into his hands and possession; as according to the tenor of the said writing obligatory he should and ought to have done. And this
19 they are ready to verify. Wherefore they pray judgment of their debt aforesaid, together with the damages by them sustained by occasion of the detention thereof, to be to them adjudged.

ARCHIBALD STIRLING, JR.,
Attorney of United States for Maryland.

And thereupon, on motion of the said United States by their attorney aforesaid, it is ruled by the court here that the said defendants rejoin to the replication of the said plaintiffs in the plea aforesaid, or judgment will be rendered against them by default.

And the said cause was thereupon continued by regular continuance from term to term of the said court from the said first Monday of April, 1872, until the first Monday in April, 1875.

At which said first Monday of April in the year 1875 aforesaid come again into the circuit court here as well the said United States by their attorney aforesaid, as the said Joseph N. Dawson, Daniel T. White, Samuel Dyson, James M. Dawson, jr., and Upton Darby by their attorney aforesaid; and the said George W. Dawson cometh not; and hereupon the said plaintiffs gives the court here to understand and be informed that after the last continuance of the plea aforesaid, and before this day, to wit, the 7th day of April, 1875, the said
20 George. W. Dawson died, and the said Joseph N. Dawson, Daniel T. White, Samuel Dyson, James M. Dawson, jr., and Upton Darby survived him.

Thereupon further process of and upon the premises aforesaid, be-

tween the parties aforesaid, by consent of the said parties by their attorneys aforesaid, and by order of the court here thereon, is further continued until the first Monday in November next.

At which mentioned first Monday in November, in the year 1875 aforesaid, come again into the circuit court here the parties aforesaid by their attorneys aforesaid.

And afterwards, to wit, on the 13th day of January, 1876, the following agreement was filed in court here, to wit:

In the circuit court of the United States, Maryland district.

THE UNITED STATES
vs.
JOSEPH N. DAWSON ET AL. } No. 4 trials, Nov. term, 1875.

This cause is submitted to the court without the intervention of a jury.

A. STIRLING, JR.,
U. S. Att'y.
TH: DONALDSON,
Att'y for Def'ts.

21 Whereupon, all and singular, the premises having been seen, heard, and by the court here fully understood, the court passed the following opinion, to wit:

Circuit court of the United States for the 4th circuit & district of Maryland.

THE UNITED STATES
vs.
JOSEPH N. DAWSON & OTHERS.

This case was submitted to the court to be tried without a jury in pursuance of the act of Congress, section 649 of the Revised Statutes.

The only evidence offered by the United States was three Treasury transcripts of the adjustment of the accounts of George W. Dawson, collector of internal revenue at the Treasury Department, the last of which, dated 4th May, 1875, stated a balance of $2,115.25 as due by the collector at that time. This balance was paid by the adm'r of the collector on the 24th Nov., 1875, and the question now submitted to the court is from what date shall interest be calculated on this balance; from the adjustment of the collector's first account, April 19th, 1871, or from the date of the last adjustment, to wit, 4th May, 1875. Section 3624, by the provisions of which interest is due from public officers who
22 have not paid the amounts reported to be due by them to the United States, upon the adjustment of their accounts, only gives interest from the time of receiving money, and not from the date of his receiving taxes for collection or from the date of any prior adjustment of his accounts. The U. S. have offered no evidence to show what amount of the balance shewn by the last adjustment to be due was for cash received by the said collector or for the tax-list passed over to his successor in office. But from the large cash payments credited to him in the first transcript, I am of the opinion that this last balance accrued from the tax-lists and not from taxes collected by him. I will give judgment in favor of the United States for the sum of seventy $\frac{50}{100}$ dol-

lars, being the interest on $2,115.25, from 4th May, 1875, to 24 Nov., 1875, & costs. I therefore reject the prayer offered by the attorney of the United States and grant the prayer offered by the attorney for the defendant.

WILLIAM F. GILES.

Whereupon judgment was accordingly entered in favor of the United States for the sum of $70.50 & costs on the 7th day of February, 1876.

MEMORANDUM.—Before the judgment aforesaid was in form
23 aforesaid entered, the said United States by their attorney aforesaid filed in court here the following bill of exceptions, to wit:

Bill of exceptions.

UNITED STATES
vs.
DAWSON. } Bill of exceptions.

The United States to support the issues on their part offered in evidence the three following transcripts of the account of George W. Dawson, as collector of internal revenue for the 5th district of Maryland:

TREASURY DEPARTMENT, REGISTER'S OFFICE,
September 20th, 1871.

Pursuant to the act of March 3, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and receivers of public moneys," I, John Allison, Register of the Treasury Department, do hereby certify that the annexed copies of the reports of the Fifth Auditor of the Treasury numbered 751, 752, & 5,803, as admitted and certified by the Comptroller upon the accounts of George W. Dawson, late collector of internal revenue for the fifth collection district of Maryland, under his official bonds dated October 20, 1862,
24 and May 2d, 1863, and of the statement of differences therein, also of extracts from statements Nos. 751 & 752 embraced therein, are a transcript from the books and proceedings of the Treasury. And that the copies of the receipts of said collector on forms 23½, 61, & 59, hereto attached, are true copies of the originals on file in this office.

JOHN ALLISON,
Register.

Be it remembered that John Allison, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, J. F. Hartley, Acting Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this department, at the city of Washington, this twentieth day of September, in the year of our Lord 1871.

[SEAL.] J. F. HARTLEY,
Acting Secretary of the Treasury.

No. 751.] TREASURY DEPARTMENT,
FIFTH*s* AUDITOR'S OFFICE,
November 12th, 1867.

25 I hereby certify that I have examined and adjusted an account

between the United States and George W. Dawson, late collector for the 5th district of Maryland, from Oct. 20th, 1862, to June 30th, 1864, and find him chargeable and also entitled to credit as follows:

To am't of assessor's lists receipted for as per certificate of Commissioner and receipts in Comptroller's office			348,371 59
" amounts of duties on spirits and fermented liquors inspected but not placed in bond, as reported on form 61			41,174 62
" taxes on collector's compensation: Commissions		$6,875 00	
Less expenses $, and amount not taxable		1,019 02	
Balance, $5,855.98, taxable at 5%		175 68	
			175 68
Forward			389,721 89

			Dr.	Cr.
Forward			389,721 89	
By amount of cash deposited as per certificate of Commissioner				310,000 00
" commission to June 30, 1863	$1,875 00			
Am't paid over and accounted for	45,000 00			
		$46,875 00		
$46,875.00 at 4 per cent	$1,875 00	$1,875 00		
Com'ns and salary for year ending 30 June, '64	$7,448 98			
Am't paid over and accounted for	265,000 00			
		$272,448 98		
26 $100,000.00 at 4 p'r cent	$4,000 00			
172,448.98 at 2 p'r cent	3,448 98			
		$7,448 98		
Limit		$5,000 00		
Total amount of collector's compensation	$1,875 00	$5,000 00		6,875 00
Balance due the United States				72,846 89
Totals			389,721 89	389,721 89

Balance due the United States $72,846.89, as appears from statement and vouchers herewith transmitted for the decision of the Comptroller thereon.

C. M. WALKER,
Auditor.

$72,846.89. COMPTROLLER'S OFFICE,
November 19th, 1867.

I admit and certify that the above amount of seventy-two thousand eight hundred and forty-six & $\frac{89}{100}$ is due the United States as stated.

R. W. TAYLER,
Comptroller.

To the COMMISSIONER OF INTERNAL REVENUE.

27 *Lists charged.*

FORM 23½.

Annual & Sept., 1862		$19,934 89
Oct.	"	7,037 44
Nov.	"	5,319 55
Dec.	"	4,964 71

Jan'y, 1863		11,689 17			
Feb'y	"	4,161 67			
M'ch	"	5,627 73			
April	"	4,727 03			
May	"	4,737 96			
June	"	16,557 56			
July	"	6,255 19			
Aug.	"	7,260 66			
Sept.	"	9,834 04			
Oct.	"	14,089 33			
Nov.	"	13,490 54	FORM 61.		
Dec.	"	17,782 77			
Ann'l		73,925 15			
Jan'y	1864	29,174 20			
Feb'y	"	24,738 16			
M'ch	"	20,609 98	April, 1864		$9,590 25
April	"	27,553 26	May "		31,584 37
May	"	18,888 54			$41,174 62
Annual & Sept.	1862	3 06			
		$348,371 59			

TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
November 12th, 1867.

Examined and stated by—

R. B. DETRICK, *Clerk.*

COMPTROLLER'S OFFICE, *November 19th*, 1867.

S. C. CLARKE, *Clerk.*

28 No. 752.

TREASURY DEPARTMENT,
FIFTHs AUDITOR'S OFFICE,
November 27th, 1867.

I hereby certify that I have examined and adjusted an account between the United States and George W. Dawson, late collector for the 5th district of Maryland, from July 1st, 1864, to Dec. 9th, 1864, and find him chargeable and also entitled to credit as follows:

To balance as per report No. 751			72,846 89	
" am't of assessor's lists receipted for as per certificate of Commissioner and receipt in Comptroller's office			285,958 44	
" am't of duties on spirits and fermented liquors, inspected but not placed in bond, as reported on form 61			26,882 12	
" am't of unassessed penalties, &c., reported by collector on form 59			5,748 42	
" Tax on coll'rs compensation, commission, and salary		$2,201 09		
Less expenses $, and amount not taxable		264 15		
Balance $1,936.94, taxable at 5 p'r cent		96 85	96 85	
" am't of taxes collected on lists receipted for by George W. Sands, the successor in office			380 60	
Forward			391,913 32	
29 Forward			391,913 32	
By amount of cash deposited as per certificate of Commissioner				285,000 00
" commissions and salary to March 31st, 1865, commissions	$1,540 76	limit.		
Am't of salary at $1,500.00 per annum	660 33			
	$2,201 09			
Total amount of collector's compensation				2,201 09
" am't of taxes abated by Comm'rs orders No. 3,622				25 00
" balance due the United States				104,687 23
Totals			391,913 32	391,913 32

Balance due the United States, $104,687.23, as appears from statement and vouchers herewith transmitted for the decision of the Comptroller thereon.

C. M. WALKER,
Auditor.

$104,687.23.

COMPTROLLER'S OFFICE, *December* 10, 1867.

I admit and certify that the above amount of one hundred & four thousand six hundred eighty-seven & $\frac{23}{100}$ dollars, is due the United States as stated.

R. W. TAYLER,
Comptroller.

To the COMMISSIONER OF INTERNAL REVENUE.

			Form 23½.	Form 61.	Form 59.
30 June,	1864		$18,755 89	$10,802 41	$
July,	"		14,832 40	1,137 63	
August,	"		20,420 81	721 38	
September,	"		21,441 73	957 00	
October,	"		23,313 04	880 00	
Annual,	"		82,291 37		
Special income,	"		104,883 20		
Dec.	"			12,383 70	5,748 42
			$285,958 44	$26,882 12	$5,748 42

TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
November 27, 1867.

Examined and stated by—

R. B. DETRICK,
Clerk.

COMPTROLLER'S OFFICE, *December* 10, 1867.

S. C. CLARKE,
Clerk.

31 *Supplemental for suit.*

No. 5803.

TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
April 19th, 1871.

I hereby certify that I have examined and adjusted an account between the United States and George W. Dawson, late collector for the 5th district of Maryland, from to Dec. 9th, 1864, and find him chargeable as follows:

(Under bond dated Oct. 20th, 1862, renewed May 2d, 1863.)

To balance from last adjustment, Report No. 752	104,687 23	104,687 23
I also find him entitled to—credited as follows:		
By amount of cash deposited, as per one certificate herewith	4,000 00	
" taxes abated by Comm'r's orders No. 5606	9,938 97	
" am't collected by successors, on lists transferred to them, G. W. Sands, $38,800.57; A. P. Gorman, 4,675.60	43,476 17	
Warrants covering into Treasury amount of cash deposited, No. 163, 2d. qr. 1868	4,000 00	
By amount of tax withheld from salaries and deposited	252 38	
32 By balance due the United States	47,019 71	104,687 23

as appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

H. D. BARRON,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

$47,019.71. TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE,
June 7, 1871.

I admit and certify that a balance of forty-seven thousand nineteen & $\frac{71}{100}$ dollars is due to the United States, as stated in the above report.

WM. HEMPHILL JONES,
Acting Comptroller.

To the REGISTER OF THE TREASURY.

Statement of differences.

Balance per account due to (no account rendered).
" found per adjustment due to .
Differences to collectors explained thus:

N. B.—The collector has failed to render his account, therefore
33 a statement of differences cannot be made, but the following summary exhibits the charges against him, also the credits allowed, viz:

DR. 1.—To taxes receipted for on Form 23½		$634,330 03	
2. " " " " " " 59		5,748 42	
3. " " " " " " 61		68,056 74	
4. " am't collected on lists of successor, G. W. Sands		380 60	
5. " " of tax on collector's compensation		272 53	
Total charged			$708,788 32
CR. A.—By amount of cash deposited		$599,000 00	
B. " " " collector's compensation		9,076 09	
C. " " " taxes abated		9,963 97	
D. " " " tax withheld from salaries		252 38	
E. " " collected by successor, George W. Sands, on lists receipted for by Collector Dawson		38,800 57	
F. By amount collected by A. P. Gorman on lists receipted for by Collector Dawson		4,675 60	
Total credited			661,768 61
Balance due the United States			47,019 71

FIFTH AUDITOR'S OFFICE, *April* 19, 1871.

Examined and stated by—

R. B. DETRICK.

COMPTROLLER'S OFFICE, *June* 7, 1871.

Examined and reported by—

GEO. S. FIFE.

34 Aggregate list of taxes assessed and returned to collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to Geo. W.

Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to nineteen thousand nine hundred & thirty-seven $\frac{95}{100}$ dollars.

(Signed)

WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Clarksville, this 25th day of March, 1863.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to nineteen thousand nine hundred & thirty-seven & $\frac{95}{100}$ dollars.

(Signed)

GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Poolesville this 25th day of March, 1863.

The foregoing receipt is given in lieu & stead of a receipt of like date, which, upon examination, was found to be short of the correct amount by the sum of $3.06.

35 Aggregate list of taxes assessed and returned to collector; to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to nineteen thousand nine hundred and thirty-four $\frac{89}{100}$ dollars.

(Signed)

WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Clarksville this 25th day of March, 1863.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to nineteen thousand nine hundred and thirty-four $\frac{89}{100}$ dollars.

(Signed)

GEORGE W. DAWSON,
Collector Fifth District of Maryland.

Dated at Poolesville this 25th day of March, 1863.

36 Aggregate list of taxes assessed and returned to collector; to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to seventeen thousand three hundred and twenty-one $\frac{70}{100}$ dollars.

(Signed)

WM. WILLING,
Assessor District of

Dated at Clarksville this 15th day of April, 1863.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to seventeen thousand three hundred and twenty-one $\frac{70}{100}$ dollars.

(Signed)

GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Poolesville this 15th day of April, 1863.

Aggregate list of taxes assessed and returned to collector; to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to
37 Geo. W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to four thousand seven hundred and twenty-seven & $\frac{03}{100}$ dollars.

(Signed)

WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Clarksville this 25th day of June, 1863.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to four thousand seven hundred and twenty-seven $\frac{03}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Poolesville this 25th day of June, 1863.

Aggregage list of taxes assessed and returned to collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to four thousand seven hundred and thirty-seven $\frac{96}{100}$ dollars.

38 (Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Clarksville this 25th day of June, 1863.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to four thousand seven hundred and thirty-seven $\frac{96}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Poolesville this 25th day of June, 1863.

Aggregate list of taxes assessed and returned to collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to Geo. W. Dawson, collector for the same district, a detailed list of taxes as-

sessed within said district, amounting in all to sixteen thousand five hundred & fifty-seven $\frac{56}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore this 24th day of August, 1863.

39 I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to sixteen thousand five hundred and fifty-seven $\frac{56}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 24th day of August, 1863.

Aggregate list of taxes assessed and returned to collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to six thousand two hundred and fifty-five $\frac{19}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Ellicott's Mills this 9th day of September, 1863.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to six thousand two hundred and fifty-five $\frac{19}{100}$ dollars.

40 (Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Ellicott's Mills this 9th day of September, 1863.

Aggregate list of taxes assessed and returned to collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to seven thousand two hundred and sixty $\frac{66}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Ellicott's Mills this third day of October, 1863.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to seven thousand two hundred and sixty $\frac{66}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Ellicott's Mills this third day of October, 1863.

41 Aggregate list of taxes assessed and returned to collector to be

forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to nine thousand eight hundred and thirty-four $\frac{4}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore this 30th day of October, 1863.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to nine thousand eight hundred and thirty-four $\frac{4}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 30th day of October, 1863.

Aggregate list of taxes assessed and returned to the collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

42 I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to Geo. W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to fourteen thousand and ninety-eight & $\frac{33}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore this 15th day of December, 1863.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to fourteen thousand and ninety-eight $\frac{33}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 15th day of December, 1863.

Aggregate list of taxes assessed and returned to collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to thirteen
43 thousand four hundred and ninety $\frac{54}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Ellicott's Mills this 19th day of January, 1864.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to thirteen thousand four hundred and ninety $\frac{54}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Ellicott's Mills this 19th day of January, 1864.

Aggregate list of taxes assessed and returned to collector, to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to seventeen thousand seven hundred and eighty-two $\frac{77}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Ellicott's Mills this 23d day of January, 1864.

44 I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to seventeen thousand seven hundred and eighty-two $\frac{77}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Ellicott's Mills this 23d day of January, 1864.

Aggregate list of taxes assessed and returned to collector, to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to seventy-three thousand nine hundred and twenty-five $\frac{15}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District Maryland.

Dated at Baltimore this tenth day of December, 1863.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amount-
45 ing to seventy-three thousand nine hundred and twenty-five $\frac{15}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this tenth day of December, 1863.

Aggregate list of taxes assessed and returned to collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to Geo. W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to twenty-nine thousand one hundred and seventy-four $\frac{20}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore this 24th day of February, 1864.

I hereby acknowledge the receipt from William Willing, assessor for

the fifth district of Maryland, a list as above described, amounting to twenty-nine thousand one hundred and seventy-four $\frac{20}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 24th day of February, 1864.

46 Aggregate list of taxes assessed and returned to collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to twenty-four thousand seven hundred & thirty-eight $\frac{16}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore this 9th day of April, 1864.

I hereby acknowledge the receipt from Wm. Willing, assessor for the 5th district of Maryland, a list as above described, amounting to twenty-four thousand seven hundred thirty-eight $\frac{16}{100}$ dollars.

(Signed) FRED'K A. DAWSON,
Dept. & Acting Collector 5th District of Maryland.

Dated at Baltimore this 9th day of April, 1864.

Aggregate list of taxes assessed and returned to collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

47 I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to Geo. W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to twenty thousand six hundred & nine $\frac{98}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore this 20th day of April, 1864.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to twenty thousand six hundred and nine $\frac{98}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 20th day of April, 1864.

Aggregate list of taxes assessed and returned to collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes as-
48 sessed within said district, amounting in all to twenty-seven thousand five hundred and fifty-three $\frac{26}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore this 21st day of May, 1864.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to twenty-seven thousand five hundred and fifty-three $\frac{26}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 21st day of May, 1864.

Aggregate list of taxes assessed and returned to collector to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to eighteen thousand eight hundred eighty-eight $\frac{54}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

49 Dated at Baltimore, this 20th day of June, 1864.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to eighteen thousand eight hundred eighty-eight $\frac{54}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore, this 20th day of June, 1864.

61.

Aggregate statement of the amount of spirits, coal oil, and fermented liquors removed from the distilleries and breweries, and of tobacco removed in bond, in the fifth collection district of Maryland, as returned to George W. Dawson, collector of said district, for the month of April, A. D. 1864.

50	Removed in bond.	Removed on bill of lading.	Sold or removed for consumption or sale.	Total number of proof gallons.	Amount of duties.
	No. of proof gallons.	No. of proof gallons.	No. of proof gallons.		
Spirits			14,469.79	14,469.79	8,681 87
	Removed on permit.	Sold or removed for consumption or sale.	Total number of barrels.	Amount of duties.	
	No. of barrels.	No. of barrels.			
Fermented liquors		908⅛	908⅛	908.38	

I hereby certify that the above is a true statement of the amounts as returned by the several distillers, coal oil distillers, brewers, and manu-

facturers of tobacco, in the fifth collection district of Maryland, for the month of April, A. D. 1864.

GEO. W. DAWSON,
Collector.

Dated at Baltimore this 15th day of May, A. D. 1864.

51 I hereby certify that I have compared the above aggregate statement of the amount of spirits, coal oil, and fermented liquors removed from distilleries and breweries, and of the tobacco removed in bond in the collection district of , for the month of , A. D. 186 , with the detailed statement thereof returned to me by , collector, and that I have found the said aggregate statement to be correct and true.

WM. WILLING, *Assessor.*

Dated at Ellicott's Mills, this 21st day of July, A. D. 1864.

This paper, though dated by the collector as of the 15th April, was not delivered to me till the 21st of July, inst.

WM. WILLING, *Ass'r.*

Aggregate statement of the amount of spirits, coal oil, and fermented liquors removed from the distilleries and breweries, and of tobacco removed in bond, in the fifth collection district of Maryland, as returned to George W. Dawson, collector of said district, for the month of May, A. D. 1864.

52	Removed in bond.	Removed on bill of lading.	Sold or removed for consumption or sale.	Total number of proof gallons.	Amount of duties.
	No. of proof gallons.	No. of proof gallons.	N. of proof-gallons.		
Spirits			50,922.29	50,922.29	30,553 37
	Removed on permit.	Sold or removed for consumption or sale.	Total number of barrels.	Amount of duties.	
	No. of barrels.	No. of barrels.			
Fermented liquors		1,031	1,031	1,031.00	

I hereby certify that the above is a true statement of the amounts as returned by the several distillers, coal oil distillers, brewers, and manufacturers of tobacco, in the fifth collection district of Maryland, for the month of May, A. D. 1864.

GEO. W. DAWSON,
Collector.

Dated at Baltimore this 15th day of June, A. D. 1864.

53 I hereby certify that I have compared the above ag'regate statement of the amount of spirits, coal oil, and fermented liquors removed from the distilleries and breweries, and of the tobacco removed in bond in the fifth collection district of Maryland, for the month of May, A. D. 1864, with the detailed statement thereof returned to me by George

W. Dawson, collector, and that I have found the said aggregate statement to be true and correct.

WM. WILLING, *Assessor.*

Dated at Ellicott's Mills, this 21st day of July, A. D. 1864.

This paper, though dated by the collector as of the 15th of May last was not delivered to me till this day, July 21st, '64.

WM. WILLING, *Ass'r.*

Aggregate list of taxes assessed and returned to collector, to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to eighteen thousand seven hundred seventy-five $\frac{89}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

54 Dated at Ellicott's Mills, this 23d day of July, 1864.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to eighteen thousand seven hundred seventy-five $\frac{89}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Ellicott's Mills, this 23d day of July, 1864.

Aggregate list of taxes assessed and returned to collector, to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to fourteen thousand eight hundred thirty-two $\frac{40}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore, this 23d day of August, 1864.

55 I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to fourteen thousand eight hundred thirty-two $\frac{40}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 23d day of August, 1864.

Aggregate list of taxes assessed and returned to collector, to be forwarded by the assessor to the Fi*fth* Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to

George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to twenty-one thousand four hundred twenty $\frac{81}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore this 28th day of September, 1864.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to twenty-one thousand four hundred twenty $\frac{81}{100}$ dollars.

56 (Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 28th day of September, 1864.

Aggregate list of taxes assessed and returned to collector, to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to twenty-one thousand four hundred forty-one $\frac{73}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore this 28th day of October, 1864.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to twenty-one thousand four hundred forty-one $\frac{73}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 28th day of October, 1864.

57 Aggregate list of taxes assessed and returned to collector, to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to twenty-three thousand three hundred thirteen $\frac{04}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore, this 26th day of November, 1864.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to twenty-three thousand three hundred thirteen $\frac{04}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 26th day of November, 1864.

Aggregate list of taxes assessed and returned to collector, to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

58 I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes assessed within said district, amounting in all to eighty-two thousand two hundred ninety-one $\frac{37}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore this 15th day of August, 1864.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to eighty-two thousand two hundred ninety-one $\frac{37}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 15th day of August, 1864.

Aggregate list of taxes assessed and returned to collector, to be forwarded by the assessor to the First Comptroller of the Treasury, Washington, D. C.

I, William Willing, assessor for the fifth collection district of the State of Maryland, hereby certify that I have this day delivered to George W. Dawson, collector for the same district, a detailed list of taxes
59 assessed within said district, amounting in all to one hundred and four thousand eight hundred eighty-three $\frac{20}{100}$ dollars.

(Signed) WM. WILLING,
Assessor Fifth District of Maryland.

Dated at Baltimore this 19th day of November, 1864.

I hereby acknowledge the receipt from William Willing, assessor for the fifth district of Maryland, a list as above described, amounting to one hundred and four thousand eight hundred eighty-three $\frac{20}{100}$ dollars.

(Signed) GEO. W. DAWSON,
Collector Fifth District of Maryland.

Dated at Baltimore this 19th day of November, 1864.

Aggregate statement of the amount of spirits, coal oil and fermented liquors removed from the distilleries and breweries, and of tobacco removed in bond, in the fifth collection district of Maryland, as returned to George W. Dawson, collector of said district, for the month of July, A. D. 1864.

62	Removed in bond.	Removed on bill of lading.	Sold or removed for consumption or sale.	Total number of proof gallons.	Amount o duties.
	No. of proof gallons.	No. of proof gallons.	N. of proof gallons.		
Spirits			16,261.52	16,261.52	$9,756 91
	Removed on permit.	Sold or removed for consumption or sale.	Total number of barrels.	Amount of duties.	
	No. of barrels.	No. of barrels.			
Fermented liquor		1,045½	1,045½	1,045.50	

I hereby certify that the above is a true statement of the amounts as returned by the several distillers, coal oil distillers, brewers, and manufacturers of tobacco, in the fifth collection district of Maryland, for the month of June, A. D. 1864.

GEO. W. DAWSON,
Collector.

Dated at Baltimore, this 13th day of July, A. D. 1864.

61 I hereby certify that I have compared the above aggregate statement of the amount of spirits, coal-oil and fermented liquors removed from the distilleries and breweries, and of the tobacco removed in bond in the fifth collection district of Maryland, for the month of June, A. D. 1864, with the detailed statement thereof returned to me by George W. Dawson, collector, and that I have found the said aggregate statement to be correct and true.

WM. WILLING,
Assessor.

Dated at Ellicott's Mills, this 23d day of July, A. D. 1864.

Aggregate statement of the amount of spirits, coal oil and fermented liquors removed from the distilleries and breweries, and of tobacco removed in bond, in the fifth collection district of Maryland, as returned to George W. Dawson, collector for said district, for the month of June, A. D. 1864.

60	Removed in bond.	Removed on bill of lading.	Sold or removed for consumption or sale.	Total number of proof gallons.	Amount of duties.
	No. of proof gallons.	No. of proof gallons.	No. of proof gallons.		
Spirits			134	134	$201 00
	Removed on permit.	Sold or removed for consumption or sale.	Total number of barrels.	Amount of duties.	
	No. of barrels.	No. of barrels.			
Fermented liquor		936⅔	936⅔	936 63	

I hereby certify that the above is a true statement of the amounts as returned by the several distillers, coal oil distillers, brewers, and manufacturers of tobacco, in the fifth collection district of Maryland, for the month of July, A. D. 1864.

GEO. W. DAWSON,
Collector.

Dated at Baltimore this day of August, A. D. 1864.

63 I hereby certify that I have compared the above aggregate statement of the amount of spirits, coal-oil and fermented liquors removed from the distilleries and breweries, and of the tobacco removed in bond, in the fifth collection district of Maryland, for the month of July, A. D. 1864, with the detailed statement thereof returned to me by Geo.

W. Dawson, collector, and that I have found said aggregate statement to be correct and true.

WM. WILLING,
Assessor.

Dated at Ellicott's Mills this 23d day of August, A. D 1864.

Aggregate statement of the amount of spirits, coal-oil and fermented liquors removed from the distilleries and breweries, and of tobacco removed in bond, in the fifth collection district of Maryland, as returned to George W. Dawson, collector of said district, for the month of August, A. D. 1864.

	Removed on permit.	Sold or removed for consumption or sale.	Total number of barrels.	Amount of duties.
	No. of barrels.	No. of barrels.		
Fermented liquor		721½	721½	721.38.

I hereby certify that the above is a true statement of the amounts as returned by the several distillers, coal-oil distillers, brewers and manufacturers of tobacco, in the fifth collection district of Maryland, for the month of August, A. D. 1864.

64 GEO. W. DAWSON,
Collector.

Dated at Baltimore this 15th day of September, A. D. 1864.

I hereby certify that I have compared the above aggregate statement of the amount of spirits, coal-oil and fermented liquors removed from the distilleries and breweries, and of the tobacco removed in bond, in the fifth collection district of Maryland, for the month of August, A. D. 1864, with the detailed statement thereof returned to me by Geo. W. Dawson, collector, and that I have found the said aggregate statement to be correct and true.

WM. WILLING,
Assessor.

Dated at Baltimore this 28th day of September, A. D. 1864.

Aggregate statement of the amount of spirits, coal oil, and fermented liquors removed from the distilleries and breweries, and of tobacco removed in bond, in the fifth collection district of Maryland, as returned to George W. Dawson, collector of said district, for the month of September, A. D. 1864.

	Removed on permit.	Sold or removed for consumption or sale.	Total number of barrels.	Amount of duties.
	No. of barrels.	No. of barrels.		
Fermented liquor		957	957	957

65 I hereby certify that the above is a true statement of the amounts as returned by the several distillers, coal-oil distillers, brewers and manufacturers of tobacco in the fifth collection district of Maryland, for the month of September, A. D. 1864.

GEO. W. DAWSON,
Collector.

Dated at Baltimore this 15th day of October, A. D. 1864.

I hereby certify that I have compared the above aggregate statement of the amount of spirits, coal oil, and fermented liquors removed from the distilleries and breweries, and of the tobacco removed in bond, in the fifth collection district of Maryland, for the month of September, A. D. 1864, with the detailed statement thereof returned to me by George W. Dawson, collector, and that I have found the said aggregate statement to be correct and true.

WM. WILLING, *Assessor.*

Dated at Clarkesville this 25th day of October, A. D. 1864.

Aggregate statement of the amount of spirits, coal oil, and fermented liquors removed from the distilleries and breweries, and of tobacco removed in bond, in the fifth collection district of Maryland, as returned to Geo. W. Dawson, collecter of said district, for the month of October, A. D. 1864.

	Removed on permit.	Sold or removed for consumption or sale.	Total number of barrels.	Amount of duties.
	No. of barrels.	No. of barrels.		
Fermented liquors		880	880	$880

66 I hereby certify that the above is a true statement of the amounts as returned by the several distillers, coal oil distillers, brewers, and manufacturers of tobacco in the fifth collection district of Maryland, for the month of October, A. D. 1864.

GEO. W. DAWSON, *Collector.*

Dated at Baltimore this 15th day of November, A. D. 1864.

I hereby certify that I have compared the above aggregate statement of the amount of spirits, coal oil, and fermented liquors removed from the distilleries and breweries, and of the tobacco removed in bond, in the fifth collection district of Maryland, for the month of October, A. D. 1864, with the detailed statement thereof returned to me by Geo. W. Dawson, collector, and that I have found the said aggregate statement to be correct and true.

WM. WILLING, *Assessor.*

Dated at Baltimore this 30th day of November, A. D. 1864.

Aggregate statement of the amount of spirits, coal oil, and fermented liquors removed from distilleries and breweries, and of tobacco removed in bond, in the fifth collection district of Maryland, as returned to Geo. W. Dawson, collector of said district, for the month
67 *of December, A. D.* 1864.

	Removed in bond.	Removed on bill of lading.	Sold or removed for consumption or sale.	Total number of proof gallons.	Amount of duties.
	No. of proof gallons.	No. of proof gallons.	No. of proof gallons.		
Spirits			$8,255\frac{80}{100}$	$8,225\frac{80}{100}$	12,383 70

I hereby certify that the above is a true statement of the amounts as returned by the several distillers, coal oil distillers, brewers, and manufacturers of tobacco in the fifth collection district of Maryland, for the month of December, A. D. 1864.

GEO. W. DAWSON, *Collector.*

Dated at Baltimore this 21st day of December, A. D. 1864.

68 I hereby certify that I have compared the above aggregate statement of the amount of spirits, coal oil, and fermented liquors removed from the distilleries and breweries, and of the tobacco removed in bond, in the fifth collection district of Maryland, for the month of December, A. D. 1864, with the detailed statement thereof returned to me by Geo. W. Dawson, collector, and that I have found the said aggregate statement to be correct and true.

WM. WILLING, *Assessor.*

Dated at Ellicott's Mills this 15th day of March, A. D. 1865.

This paper dated by the collector, December 21st, 1864, was delivered to me about 5 days since, Mr. Dawson retained it.

WM. WILLING, *Assessor.*

Aggregate statement of unassessed taxes, &c., returned by the collector.

I, Geo. W. Dawson, collector for the fifth collection district of Maryland, hereby acknowledge that I have received assessments on special lists and returns of unassessed taxes, and that I have collected unassessed penalties, duties on passports, and taxes collected after they have been allowed as uncollectible, amounting in all to the sum of four thousand seven hundred forty-eight $\frac{42}{100}$ dollars during the month of
69 December, A. D. 1864, and that I have received an allowance of dollars for taxes believed to uncollectible after the same had been collected, amounting in all to dollars, as fully appears by the detailed statement this day returned to the assessor.

GEO. W. DAWSON, *Collector.*

Dated at Baltimore this 7th day of October, A. D. 1865.

I hereby certify that the above statement agrees in amount with the detailed statement this day returned to me by the collector.

WM. WILLING, *Assessor.*

Dated at Clarkesville, this 21st day of October, A. D. 1865.

TREASURY DEPARTMENT,
Register's Office, Feb'y 3d, 1873.

Pursuant to the act of March 3, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and receivers of public moneys," I, John Allison, Register of the Treasury Department, do hereby certify that the annexed copy of the report of the Fifth Auditor of the Treasury, numbered 7531, as admitted and certified by the Comptroller upon the account of
70 George W. Dawson, late collector of internal revenue for the 5th collection district of Maryland, under his official bonds, dated October 20th, 1862, and renewed May 2d, 1863, and of the statement of differences thereon, are a transcript from the books and proceedings of the Treasury.

JOHN ALLISON, *Register.*

Be it remembered that John Allison, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, George S. Boutwell, Secretary of the Treas-

ury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this department, at the city of Washington, this third day of February, in the year of our Lord 1873.

[SEAL.] GEO. S. BOUTWELL,
Secretary of the Treasury.

Supplemental for suit.

No. 7531. TREASURY DEPARTMENT,
Fifth Auditor's Office, November 16th, 1872.

I hereby certify that I have examined and adjusted an account
71 between the United States and *and* George W. Dawson, late collector for the 5th district of Maryland, from to December 22d, 1864, and find him chargeable as follows:

(Under bond dated Oct. 20th, 1862, renewed May 2d, 1863.)

To balance from last *last* adjustment, report No. 5803.....	47,019 71	47,019 71
I also find him entitled to credit as follows:		
By amount of cash deposited as per one certificate herewith	2,899 00	
Warrants covering into Treasury amount of cash deposited, viz:		
No. 353, 2d qr. 1871, $2,899 00.		
(22) By amount of vouchers of ass't assessors, per schedules Nos. 1, 2 & 3	18,461 22	
(23) By amount of drafts in favor of the assessor.....	6,570 64	
(24) By amount of drafts refunding taxes	26 00	
(25) By amount disbursed by collector, as follows, viz: For stationery, $99.47; postage, $74.00; depositing money, $210.00	383 47	
(26) By amount of collector's salary & commissions in addition to amount heretofore credited, per rep'ts ‡751 & ‡752..	5,281 18	
(27) By amount of tax as collector's compensation charged in excess per rep'ts ‡751, ‡752	43 47	
(28) Balance due the United States.....	13,354 73	
		$47,019 71

72 As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. H. ELA, *Auditor.*

To the FIRST COMPTROLLER OF THE TREASURY.

$13,354$\frac{73}{100}$. TREASURY DEPARTMENT,
Comptroller's Office, December 3d, 1872.

I admit and certify that a balance of thirteen thousand three hundred fifty-four & $\frac{73}{100}$ dollars is due to the United States, as stated in the above report.

R. W. TAYLER, *Comptroller.*

To the REGISTER OF THE TREASURY.

Statement of differences.

Balance per coll'r's statement due to the United States		$13,887 46	
" found per adjustment due to the United States		13,354 73	
Difference to collector's credit			$532 73
Explained thus:			
(1) Am't credited per adjustment as cash deposited	$601,899 00		
Am't claimed per statement as cash deposited ..	599,000 00		
		2,899 00	
(2) Am't credited per adjustment as collector's compensation (net) not claimed per statement		14,128 21	

73 (3) Am't credited per-adjustment for stationery, postage & depositing money....	$383 47			
Am't claimed per statement for do.....	382 82			
			65	17,027 86
Deduct—				
A. Am't claimed per statement as paid ass't assessors.....	$18,727.45			
Less am't credited per statement as tax withheld.....	262.91			
	$18,464 54			
Am't credited per adjustment as paid ass't assessors.....	18,461 22			
			3 32	
Caused thus:				
Voucher of R. J. Marshall for May, 1863, 1 Sunday charged, disallowed.....	$3 00			
Am't claimed per statement in excess of vouchers.	32			
	$3 32			
B. Am't claimed per statement as taxes transferred to successor	$59,486 09			
Am't credited per adjustment as collections by successors on taxes of Collector Dawson.....	43,476 17			
			16,009 92	
NOTE.—The law does not authorize transfer of taxes to successor except on commissioner's certificate of due diligence.				
C. Am't claimed per statement as paid out for advertising			409 89	
NOTE.—This item is not allowed for the reason that the law did not provide for its payment.				
74 D. Am't claimed per statement as "cash taken from deputy collector by Gen'l Early's troops".....			72 00	
NOTE.—The law does not authorize the accounting officers to give credit for this item.				16,495 13
Difference as above stated.....				$532 73

The salary & commissions credited herein arises thus:

1863. Am't paid over and accounted during fiscal year ending June 30, 1863.....	$52,242 07			
Commission on $52,242.07 @ 4 %.....	$2,089.68			
Deduct commissions credited per Rep't ‡751	1,875.00			
			214 68	
1864. Am't paid over and accounted for during fiscal year ending June 30th, 1864	$283,227 30			
Commissions on $100,000.00 4 %.....	$4,000.00			
" " 183,227.30 2 %.....	3,664.55			
	7,664 55			
Deduct commissions credited per Rep't ‡751....	5,000 00			
			2,664 55	
Amount forward			$2,879 23	
1865. As amount paid over & accounted for by both collectors from July 1, 1864, to June 30th, 1865, viz, $494,434.43, is to amount paid over by Collector Dawson during said period, $295,654.89, so is total commissions on former sum, $6,504.70, to commissions of Collector Dawson	3,889.72			
Add salary from July 1, 1864, to Dec. 22, 1864, @ $1,500 p'r annum	713.32			
	$4,603.04			
75 Deduct amount of salary & commissions credited per Rep't ‡752.	$2,201.09			
		2,401 09		
Credited herein.....		5,281 18		

FIFTH AUDITOR'S OFFICE, *November 16th*, 1872.

Examined and stated by—

R. B. DETRICK.

COMPTROLLER'S OFFICE, *December 3d*, 1872.

Examined and reported by—

GEO. S. FIFE.

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., May 13th, 1875.

Pursuant to section 886 of the Revised Statutes of the United States, I, John Allison, Register of the Treasury Department, do hereby certify that the annexed copy of the report of the Fifth Auditor of the Treasury numbered 10072, as admitted and certified by the Comptroller upon the account of George W. Dawson, late collector of internal revenue for the fifth collection district of Maryland, and of the statement of differences thereon, are a transcript from the books and proceedings of the Treasury.

JOHN ALLISON,
Register.

76 Be it remembered that John Allison, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, B. H. Bristow, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this department, at the city of Washington, this thirteenth day of May, in the year of our Lord 1875.

[SEAL.]

B. H. BRISTOW,
Secretary of the Treasury.

Supplemental for suit.

No. 10072.

TREASURY DEPARTMENT,
Fifth Auditor's Office, May 1st, 1875.

I hereby certify that I have examined and adjusted an account between the United States and George W. Dawson, late collector of the fifth district of Maryland, from 187 to December 22d, 1864, and find him chargeable as follows:

Under bonds of Oct. 20th, 1862, and May 2, 1863.

To balance from last adjustment, report No. 7531.....	$13,354 73	
		$13,354 73

I also find him entitled to credit as follows:

77 By amount of taxes abated by Commissioner's orders Nos. 7966, 7970, 7990, 7991, 7992, 8287, 8359, 8401.....	10,152 55	
By amount collected by successor on lists transferred to him, G. W. Sands.....	1,014 93	
"amount authorized to be credited by act of Congress approved March 3d, 1875, (private No. 72), copy herewith.....	72 00	
By balance due the United States.....	2,115 25	
		$13,354 73

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. H. ELLA,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

$2,115\frac{25}{100}$. TREASURY DEPARTMENT,
Comptroller's Office, May 4th, 1875.

I admit and certify that a balance of two thousand one hundred and fifteen and $\frac{25}{100}$ dollars is due to the United States as stated in the above report.

WM. HEMPHILL JONES,
Acting Comptroller.

To the REGISTER OF THE TREASURY.

78 *Statement of differences.*

Balance per collector's statement due to the United States...	$13,887 46	
" found per adjustment due to the United States....	2,115 25	
Difference to collector's credit.....		$11,772 21

Explained thus:

CR. (*a*)

1. Outstanding difference per last rep't No. 7531.....	$532 73	
2. Am't credited herein as taxes abated.....	10,152 55	
3. Am't credited herein as collections by successor on lists receipted for by Collector Dawson.....	1,014 93	
4. Am't credited herein per act of Congress, approved Mc'h 3d, 1875.....	72 00	
		$11,772 21

(*a.*) For explanation of outstanding difference see report No. 7531.

FIFTH AUDITOR'S OFFICE,
May 1, 1875.

Examined and stated by—

R. B. DETRICK.

COMPTROLLER'S OFFICE,
May 4th, 1875.

Examined and reported by—

CHAS. G. BIGGS.

79 The defendants to support the issue on their part offered in evidence the following receipt of the U. S. Treasury at Baltimore, showing the payment by the executor of said collector of the amount of the balance certified against said collector by the last of said transcripts, being the balance thereby certified on the 4th of May, 1875.

(Triplicate.)

No. 628. OFFICE OF THE U. S. ASSISTANT TREASURER,
Baltimore, Nov. 24th, 1875.

I certify that Fred'k A. Dawson, administrator of George W. Dawson, late collector 5th district of Maryland, has this day deposited to the credit of the Treasurer of the United States twenty-one hundred fifteen $\frac{25}{100}$ dollars, on account of internal revenue tax collections, balance due U. S., for which I have signed triplicate receipts.

$2,115.25.

THOS. H. H. LEARY,
Acting U. S. Assistant Treasurer.

(On the margin:) This will be retained by the depositor for his own use and security.

It was agreed by the respective attorneys that as the sureties of each of the two bonds of the said collector were the same, that judgment for the whole amount which might be found due to the plaintiff by the collector should be entered in this suit on the bond dated May 2d, 1863.

80 The united States then prayed the court to rule and decide as follows:

Plaintiffs' prayer.

The United States prays the court to rule and decide upon the pleadings, and (upon the whole evidence in this cause; the said evidence being the three transcripts from the Treasury Department offered in evidence by the United States, and the receipt of the assistant treasurer at Baltimore dated November 24th, for the sum of $2,115.25, which receipt has been offered in evidence by the defendant) the United is entitled to recover the amount of interest at the rate of six per cent. on said sum of $2,115.25 from the 9th of December, 1864, the date on which George W. Dawson went out of office as collector of internal revenue to the date of November 24th, '75.

The defendant prayed the court to rule and decide as follows:

Defendant's prayer.

That interest is recoverable in this action on the sum of $2,115.25 only from May 4th, 1875, to the 24th of November, 1875, the date when the said principal sum of $2,115.25 was paid to the U. S. assistant treasurer at Baltimore.

81 The court rejected the plaintiffs' prayer and granted defendant's prayer, and made the following findings of facts and decision:

Circuit court of the United States for the 4th circuit & district of Maryland.

THE UNITED STATES
vs.
JOSEPH N. DAWSON & OTHERS.

This case was submitted to the court to be tried without a jury in pursuance of the act of Congress, section 649 of the Revised Statutes. The only evidence offered by the United States was three Treasury transcripts of the adjustment of the accounts of George W. Dawson, collector of internal revenue at the Treasury Department, the last of which, dated 4th May, 1875, stated a balance of $2,115.25 as due by the collector at that time. This balance was paid by the adm'r of the collector on the 24th Nov., 1875, and the question now submitted to the court is, from what date shall interest be calculated on this balance: from the adjustment of the collector's first account, April 19th, 1871, or from the date of the last adjustment, to wit, 4th May, 1875? Section 3624, by the provisions of which interest is due from the public officers, who have not paid the amounts reported to be due by them to the United States upon the adjustment of their accounts, only gives interest from

82 the time of receiving money and not from the date of his receiving taxes for collection, or from the date of any prior adjustment

of his accounts. The U. S. have offered no evidence to show what amount of the balance shewn by the last adjustment to be due was for cash received by the said collector, or for the tax-list passed over to his successor in office. But from the large cash payments credited to him in the first transcript, I am of the opinion that this last balance accrued from the tax-lists and not from taxes collected by him.

I will give judgment in favor of the United States for the sum of seventy $\frac{50}{100}$ dollars, being the interest on $2,115.25 from 4 May, 1875, to 24 Nov., 1875, & costs.

I therefore reject the prayer offered by the attorney of the United States, and grant the prayer offered by the attorney for the defendant.

WILLIAM F. GILES.

To which rejection of the plaintiffs' prayer, and to the granting of the defendant's prayer, and to the said finding and decision of the court the plaintiff excepted, and prayed the court to sign and seal this, their bill of exceptions, which is accordingly done this 7th day of February, 1876.

WILLIAM F. GILES.

83 And afterwards, to wit, on the 29th day of April, in the year 1876 aforesaid, the said United States, by their said attorney, produced the writ of the United States of America, for the correcting of errors of and upon the premises, commanding that the judgment aforesaid, so as aforesaid rendered, with all things thereunto relating, be transmitted to the Supreme Court of the United States to be held at Washington on the second Monday in October next, which said writ is as follows, to wit:

84 THE UNITED STATES OF AMERICA,

District of Maryland, to wit:

The President of the United States of America to the judges of the circuit court of the United States for the fourth circuit in and for the district of Maryland, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said circuit court, before you, or some of you, between the United States of America, plaintiff, and Joseph N. Dawson, Upton White, Samuel Dyson, and Daniel T. White, survivors of George W. Dawson, defendants, a manifest error hath happened, to the great damage of the said United States, as by their complaint appears: We being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalfe, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday in October next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the laws and custom of the United States should be done.

85 Witness the honorable Morrison R. Waite, Chief Justice of our Supreme Court, the 29th day of April, in the year of our Lord one thousand eight hundred and seventy-six.

Issued the 29th day of April, 1876.

[SEAL.] JAMES W. CHEW,
Clerk Circuit Court.

86 THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

To Joseph N. Dawson, Upton White, Samuel Dyson, and Daniel T. White, survivors of George W. Dawson, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday in October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fourth circuit in and for the Maryland district, wherein the United States of America are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness my hand and seal this fifteenth day of September, in the year of our Lord one thousand eight hundred and seventy-six.

WILLIAM F. GILES. [SEAL.]

Service acknowledged this 28th day of September, A. D. 1876.

TH. DONALDSON,
For Def'ts.

87, 88 In pursuance whereof, and according to the statute in such case made and provided, a record of the judgment aforesaid, with all things thereunto relating, together with the said writ of error annexed, is hereby transmitted to the said Supreme Court accordingly.

I hereby certify that the aforegoing is a true copy of the record and proceedings of the said circuit court in the cause aforesaid.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said circuit court this twenty-eighth day of September, A. D. 1876.

[SEAL.] JAMES W. CHEW,
Clerk Circuit Court.

(Indorsement on cover:) No. 275. The United States, pl'ff in error vs. Joseph N. Dawson, Upton White, Samuel Dyson, and Daniel T. White, survivors of George W. Dawson, dec'd. Maryland C. C. U. S. Filed 17th October, 1876.

In the Supreme Court of the United States.

OCTOBER TERM, 1879.

UNITED STATES
v.
JOSEPH N. DAWSON ET AL.

PHILADELPHIA BAR ASSOCIATION
No. 455.

ERROR TO UNITED STATES CIRCUIT COURT IN MARYLAND.

PLAINTIFF'S BRIEF.

In the Supreme Court of the United States.

OCTOBER TERM, 1879.

UNITED STATES
v.
JOSEPH N. DAWSON ET AL. } No. 55.

ERROR TO UNITED STATES CIRCUIT COURT IN MARYLAND.

PLAINTIFF'S BRIEF.

STATEMENT.

George W. Dawson was collector of internal revenue for the fifth district of Maryland. May 2, 1863, he executed the official bond in suit, with the defendants in error as sureties, conditioned that "if the said George W. Dawson has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge, all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands

or possession, and if each and every deputy collector appointed by said collector has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge, all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue." (Record, 6, top.)

By the Treasury transcripts put in evidence by the government it appeared that the balance charged against him at the close of his tenure of office ending December 9, 1864, as certified by the Comptroller December 10, 1867, was $104,687.33 (Record, 13, near top), which sum was reduced by subsequent collections, payments, abatements, and lists turned over to his successor to $47,019.71 adjusted April 19, 1871, certified June 7, 1871 (Record, 13, 14); and later, by same means, to $13,354.73, certified December 3, 1872 (Record, 30, folio 72); and was, in like manner, reduced to $2,115.25, certified May 4, 1875 (Record, 33, top), which sum was paid by Dawson's representative (he having died April 7, 1875), without interest, November 24, 1875 (Record, 33, bottom.)

Upon this state of facts the plaintiff requested the court, to whom the case was submitted without a jury, "to rule and decide upon the pleadings and upon the whole evidence in this cause (the said evidence being the three transcripts from the Treasury Department offered in evidence by the United States, and the receipt of the assistant treasurer at Baltimore dated November 24, 1875, for the sum of $2,115.25, which receipt has been offered in evidence by the defendant) the United States is entitled to recover the amount of interest at the rate of six per cent. on said sum of $2,115.25 from the 9th of

December, 1864, the date on which George W. Dawson went out of office as collector of internal revenue, to the date of November 24, 1875." (Record, 34.)

The defendant prayed the court to rule and decide as follows:

"That interest is recoverable in this action on the sum of $2,115.25 only from May 4, 1875, to the 24th of November, 1875, the date when the said principal sum of $2,115.25 was paid to the United States assistant treasurer at Baltimore." (*Ib.*)

The court rejected the plaintiff's prayer and granted defendants' prayer, and made the following findings of facts and decision:

"This case was submitted to the court, to be tried without a jury, in pursuance of the act of Congress, section 649 of the Revised Statutes. The only evidence offered by the United States was three Treasury transcripts of the adjustment of the accounts of George W. Dawson, collector of internal revenue, at the Treasury Department, the last of which, dated 4th May, 1875, stated a balance of $2,115.25 as due by the collector at that time. This balance was paid by the administrator of the collector on the 24th of November, 1875; and the question now submitted to the court is: From what date shall interest be calculated on this balance—from the adjustment of the collector's first account, April 19, 1871, or from the date of the last adjustment, to wit, 4th May, 1875?

"Section 3624, by the provisions of which interest is due from the public officers who have not paid the amounts reported to be due by them to the United States upon the adjustment of their accounts, only gives interest from the time of receiving money, and not from the date

of his receiving taxes for collection, or from the date of any prior adjustment of his accounts. The United States have offered no evidence to show what amount of the balance thereon by the last adjustment to be due was for cash received by the said collector, or for the tax-list passed over to his successor in office. But from the large cash payments credited to him in the first transcript, I am of the opinion that this last balance accrued from the tax-list, and not from taxes collected by him.

"I will give judgment in favor of the United States for the sum of seventy $\frac{50}{100}$ dollars, being the interest on $2,115.25 from 4th May, 1875, to 24th November, 1875, and costs.

"I, therefore, reject the prayer offered by the attorney of the United States and grant the prayer offered by the attorney for the defendant."

ASSIGNMENT OF ERROR.

1. The United States excepted to the giving of the defendants' prayer and to the rejection of the plaintiff's, and now assign the same for error.

2. The court erred in fixing the amount of interest and the date from which it should accrue, and rendered judgment accordingly for a less sum than that to which the United States was entitled.

BRIEF.

Revised Statutes, sec. 3624, provides: "Whenever any person accountable for public money neglects or refuses to pay into the Treasury the sum or balance *reported* to be due to the United States, upon the adjustment of his account, the First Comptroller of the Treasury shall institute suit for the recovery of the same, adding to the sum stated to be due on such account the commissions of the delinquent, which shall be forfeited in every instance where suit is commenced and judgment obtained thereon, and an interest of six per centum per annum from the time of receiving the money until the time when it shall be repaid into the Treasury."

We will briefly consider the collector's liability for interest, (1) under the foregoing section, (2) according to the general principles of law.

I.

This suit is upon a bond, conditioned for a true and faithful discharge of duty, including that of rendering just accounts.

Mr. Dawson rendered none. (Record, 14, folio 33.) By act of June 30, 1864, c. 173, § 33, they should have been rendered monthly, and all sums actually collected within the month should have been paid over at its expiration. (13 Stats., 236; Act of March 3, 1865, c. 80, § 3; *Ib.*)

A failure to *account* was a breach of his bond. It was such a breach as *compelled* the Treasury officials to state the account as best they could from the data in their

hands. It was the balance so adjusted and reported upon which interest accrued. If it demanded interest upon an amount not in the officer's hands, it was his own fault, and in the nature of a penalty to enforce compliance with the law requiring monthly returns.

As to the specific sum ($2,115.25) upon which interest has been computed in this case, it was the balance remaining due after Mr. Dawson had been fully credited with all collections, payments, or abatements made by or to him and his successors in office. Yet it must have been on hand December 9, 1864, when he went out of office. After that date he had no authority to collect taxes. The apparent balance against him by adjustment No. 752 (Record, 12, folios 28 and 29) was $104,687.23. That adjustment was certified December 10, 1867, three years after he went out of office. Prior to the next adjustment, No. 5803, made up April 19, 1871, and certified June 7, 1871 (Record, 13, 14, folios 31, 32), he had paid in *cash* $8,000; and by abatements and collections of his successors the balance due the United States was reduced to $47,019.71. (Record, 13, bottom.) Disregarding these latter items the cash must have been due December 9, 1864, at the latest; for he could have received no public funds after that day. The next adjustment, No. 7531, was dated November 16, 1872, and certified December 3, 1872, about eight years after his term of office expired. It showed the balance due at that settlement to be $13,354.73, while the collector's own statement showed $13,887.46 to be then due the United States. (Record, 30.)

The last adjustment, No. 10072, bears date May 1, 1875, and was certified upon the 4th day of that month. It reduced the balance ($13,887.46) stated by the collect-

or as due by the difference in his favor ($532.73) indicated in the previous settlement, No. 7531; by abatements, $10,152.55; by collections of his successor, $1,014.93; and by $72 taken by Early's troops and allowed under act of March 3, 1875, c. 206 (18 Stats., 660), leaving the balance of $2,115.25 due the United States. (Record, 32, 33.)

It is apparent that Mr. Dawson himself collected nothing after December 9, 1864. He subsequently, from time to time, received full credit for all collections made by his successors. The small sum taken by Early's men from his deputy is allowed, and all taxes which were uncollectible were abated; and yet $2,115.25 are found due to the United States, which was part of a larger sum reduced by sundry cash payments. This $2,115.25 must necessarily have been received by Mr. Dawson on or prior to December 9, 1864. It should bear interest, under Revised Statutes, section 3624, from that date. That the large amount reported by first adjustment was reduced from time to time, as above indicated, is no reason why interest should not be paid on the sum which was not wiped out, but which, being a part of the balance originally stated, remained due ever after December 9, 1864.

II.

The act of June 30, 1864, chap. 173, § 33, reads:

"SEC. 33. *And be it further enacted*, That the several collectors shall, at the expiration of each and every month after they shall respectively commence their collections, transmit to the Commissioner of Internal Revenue a statement of the collections made by them, respectively, within the month, and pay over monthly, or

at such time or times as may be required by the Commissioner of Internal Revenue, the moneys by them respectively collected within the said term and at such places as may be designated and required by the Commissioner of Internal Revenue; and each of the said collectors shall complete the collection of all sums assigned to him for collection, as aforesaid, shall pay over the same into the Treasury, and shall render his accounts to the Treasury Department as often as he may be required. And the Secretary of the Treasury is authorized to designate one or more depositories in each State for the deposit and safe-keeping of the moneys collected by virtue of this act; and the receipt of the proper officer of such depository to a collector for the money deposited by him shall be a sufficient voucher for such collector in the settlement of his accounts at the Treasury Department. And the Commissioner of Internal Revenue may, under the direction of the Secretary of the Treasury, prescribe such regulations with reference to such deposits as he may deem necessary." (13 Stats., 236.)

The act of March 3, 1865, c. 78, § 3, required collectors, &c., to pay in their collections to a designated depositary or United States treasurer, *daily*. (*Id.*, 483.)

Mr. Dawson's failure to account was a breach of his bond.

So was his refusal and neglect to pay over the cash balance in his hands December 9, 1864, when he retired from office, of which this $2,115.25 must necessarily have been part. As a private citizen he should not have kept it, irrespective of any statutory provisions. Had he collected moneys as agent of an individual and

neglected to report them and to pay them over, he would have been liable to pay interest thereon from the time of receiving them; and the United States stands upon as favorable a footing towards its agents, in this particular, as any individual does toward his.

This money was clearly due December 9, 1864. Not to pay it on or before that day was a default, constituting a breach of the bond in suit. The least damages that can legally be awarded for such a breach is legal interest upon the sum unlawfully detained, during the whole period of such detention. (Wood *v.* Robbins, 11 Mass., 506; Dodge *v.* Perkins, 9 Pick., 368; Bassett *v.* Sanborn, 9 Cush., 68; Gay *v.* Gardiner, 54 Maine, 477; Farmington *v.* Stanley, 60 Maine, 476; Buzzell *v.* Snell, 25 N. H. (5 Foster), 474; Nat. Lancers *v.* Lovering, 30 N. H., 511; Whitworth *v.* Hart, 22 Ala., 343, citing earlier cases in that State; Lynch *v.* DeViar, 8 Johns., 310; Clark *v.* Barlow, 4 Johns., 183; Williams *v.* Sherman, 7 Wend., 109, 112; Greenly *v.* Hopkins, 10 Wend., 96; Still *v.* Hunt, 20 Wend., 51; Van Rensselaer *v.* Jewett, 2 N. Y. (Comst.), 140; Adams *v.* Fort Plain Bk., 36 N. Y., 261; Stacy *v.* Graham, 14 N. Y., 494; Stevenson *v.* Maxwell, 2 Sandf. Ch., 273; Honore *v.* Murray, 3 Dana, 31; Elkin *v.* Moore, 6 B. Monr., 462; Sims *v.* Goudelock, 7 Richd., 23; Kennedy *v.* Barnwell, *Ib.*, 124; Barr *v.* Hazelton, 10 Richd. Eq., 61, 62; Vt. & C. R. R. *v.* Vt. Cent. R. R., 34 Vt., 65; Cooper *v.* Rainey, 4 Minn., 532; Rapalie *v.* Emory, 1 Dallas, 349; Shipman *v.* Miller, 2 Root, 405; Evans *v.* State, 36 Texas, 323; Youmans *v.* Heartt, 34 Mich. 401.)

In Swett *v.* Hooper (62 Maine, 55, bottom), it is said that the principle was thus correctly and tersely stated in People *v.* N. Y., 5 Cowan, 331, "that whenever the

debtor knows what he is to pay, and when he is to pay it, he shall be charged with interest if he neglect to pay." Mr. Dawson knew his duty to be to pay all sums belonging to the United States December 9, 1864, when he retired from office.

The whole subject has been discussed, and copious extracts from the above cited (and other) cases made in my brief in the advanced case No. 706, lately argued, so it will not be enlarged upon here.

EDWIN B. SMITH,
Assistant Attorney-General.

In the Supreme Court of the United States.

OCTOBER TERM, 1879.

UNITED STATES
v.
JOSEPH N. DAWSON. } No. 55.

PLAINTIFFS' REPLY TO DEFENDANT'S BRIEF.

The right to interest arises in three ways: by express contract, by statute, and by implication of law. If expressly contracted for, there is no room for controversy. As to statutory interest, the only question must be upon the construction and application of the statute.

I.

In the present instance, what does Revised Statutes, sec. 3624, prescribe as to the payment of interest? That if a person accountable for public money does not pay "the balance *reported* to be due" on the adjustment of his account he shall be liable to lose his commissions and to pay 6 per cent. interest from the time of receiving the money.

When was the late Mr. Dawson's account adjusted, and a balance reported to be due? December 10, 1867. (Record, 12, 13.)

That this balance was reduced by *subsequent* transactions, &c., does not affect this question. It remained the true balance as of the date it was struck, and later accounts are based upon its correctness.

The writ of summons is dated October 23, 1871. (Record, 1.) The last adjustment prior to this date was certified December 3, 1872. (Record, 30, fol. 72.)

The statute can hardly be supposed to refer to an adjustment made *after suit brought*, but must mean that upon which it was instituted; or else the one which first stated a balance due.

A partial payment, *pendente lite*, cannot relieve a man from the liability for statutory interest upon the entire sum previously found due. If it were otherwise, payment, into a designated depository, of $100 just before going to trial, would prevent the accruing of interest upon any sum however large, and however long it had wrongfully been withheld.

The assumption that Mr. Dawson had the $2,115.50 in his hands at the date of retiring from office is based upon the legal certainty that he had no authority or power to collect it afterwards, coupled with his failure to account (which is not set up as a breach of his bond but as making him chargeable with the $2,115.50 as cash, and repelling the idea that it was uncollected taxes), and with the statement in the record that, after the first adjustment, he reduced the sum thereby reported by several *cash* payments. (Record, 13, 14, folios 31, 32.) This meets the suggestion of the defendant's brief (p. 4,

top), that the United States have failed to show his reception of the money. It is practically impossible for the government to show this in any case where the officer fails to account. It must rest on the legal presumption that he has done his duty in collecting taxes in every instance where he has not affirmatively shown his inability.

II.

The accounting-officer's judgment, if conclusive at all, is only so upon the *facts*. These being conceded or established, their erroneous idea of the *law* concludes nobody. Nor is either party bound by a mere omission, consequent upon mistake of law, to make a clerical entry.

If the law, statutory or other, upon the *facts* found, requires the payment of interest, no failure to state it as an item upon the books of the Treasury can deprive the government of that right.

In the majority of cases where individuals recover interest, especially in suits upon bonds, there is no statement of the claim until it is demanded at law, by the institution of the action.

The citations upon the defendant's brief simply hold that "after the Auditor shall once have settled the account of an officer and closed it" *he* cannot reopen it and *issue a distress warrant.*

There is no desire to reopen the account, to surcharge and falsify. The sole question is, when did interest accrue upon the account precisely as found and stated?

That is purely a question of law upon established facts.

III.

Although it is aside from the present contention, I will reply affirmatively to the inquiry whether or not the sureties could be held for forfeited commissions. Certainly. The title to these commissions is simply a right to withhold, under certain circumstances, a portion of the public funds in the hands of the officer which have been by him collected from individuals as due to the government. If those circumstances, whatever they may be, which justify their deduction and detention, do not exist, he is bound to pay over *all* the public moneys in his hands, and the sureties are responsible if he neglects to make the payment.

IV.

If the interest accrues by implication of law, which may well be held to be the case, both in this action and in that of Curtis & Foster, No. 706 of the current docket, independently of statute, the same principles apply.

The wrongful detention of the money is a default, upon which the right to interest accrues *by operation of law*. The accounting-officer states the facts, or they may be otherwise proved, as to the principal. Then the law gives or refuses interest as those facts require, without any entry as to that upon the books in which the items which make up the principal are entered. This is the purport of my numerous citations.

EDWIN B. SMITH,
Assistant Attorney-General.

In Supreme Court of the United States.

October Term, 1879.

THE UNITED STATES
vs.
JOSEPH N. DAWSON AND OTHERS. } *No. 55.*

JOS. H. BRADLEY,
Counsel for Defendants.

R. O. POLKINHORN, PRINTER, WASHINGTON, D. C.

In Supreme Court of the United States.

October Term, 1879.

THE UNITED STATES
vs.
JOSEPH N. DAWSON AND OTHERS. } *No. 55.*

This is an action on the bond of a Collector of Internal Revenue against the principal in the bond and his sureties, to recover a balance claimed by the United States to be due by the Collector for money collected by him and not paid over according to the condition of his bond. It was brought while his accounts were still unsettled, and were in process of adjustment. Dawson, the Collector, died on the 7th of April, 1875, while the suit was pending and his account was finally settled on the 4th of May, 1875, showing a balance of $2,115.50 due by him, which was paid by his administrator on the 24th November, 1875, the suit still pending. On the 7th of February, 1876, (Rec., 34, 35), the case was submitted to the court, to be tried without a jury, and the only question submitted was from what time interest was to be calculated on the amount "reported to be due on the adjustment of the account." The counsel for the United States asked the court to find that the United States was entitled to recover interest at the rate of six per cent. on said sum of $2,115.50 from the 6th December, 1864, the date on which George W. Dawson went out of office as Collector of Internal Revenue, to the date, November 24, 1875.

The court refused this request, and gave judgment for the United States for the sum of seventy dollars and fifty cents, being the interest on $2,115.50 from 4th May, 1875, to 24th November, 1875, and costs.

The United States excepted to the ruling of the court, and brought this writ of error.

The defendants will maintain that there was no error in this ruling of the court.

The question was definitely settled when the final account was certified, and no authority is given by any statute to any court of the United States to revise that account except to investigate claims for credit on account of the officer, which had been presented to and disallowed by the accounting officers of the Treasury; and for items charged in the account on evidence other than that afforded by the books of the defendant.

If, as is contended for on the other side, the United States, at the time of that final adjustment, had a claim for interest accruing prior thereto, it was just as much a claim to be passed upon by those accounting officers, as it is now to be adjudicated by this court. Suppose they had afterwards discovered they had failed to charge him with any other item, or had failed to credit him with some item, will it be claimed here that such error or omission could be corrected in a suit on the bond founded on the Treasury transcript? Certainly not.

The authorities cited in plaintiff's brief show, or tend to show that interest is demandable, and becomes part of the debt when that is due and demandable. This may be so; but how does it affect this question?

This court has none of the facilities which the accounting officers had to adjust the account. There is nothing here but the naked accounts. Those officers had before them all the vouchers on either side, [copies of which the act of 1797 requires to accompany the transcript, *United States*

vs. *Jones*, 8 Pet., 388], with opportunities for explanation to guide their judgment. This court has not.

It is assumed in that argument that this sum of $2,115.50 must have been in the hands of the Collector when he went out of office, as he could not. thereafter, have received any public money; and § 3,624 directs that he shall be charged interest thereon from the time of his receipt of the money. *Non constat* that he did receive it.

In the first place, the assumption of the fact is founded on a misapprehension of the facts on which it is based. The three accounts in the record show that the settlement of the accounts was progressive and depended on his accounting for the *taxes placed in his hands for collection*; not for moneys actually received by him. It is made a matter of complaint in the plaintiff's brief that Dawson, the collector, failed to render his account. (Rec., p. 14.) But this was not to the detriment of the United States, and is not set up as one of the breaches of the condition of the bond. What was the effect of this failure? It prevented the accounting officers from making a statement of differences, and that was to the detriment of the collector. Such a statement was made in the next account, and greatly reduced the balance before that time apparently due. The department had, however, all the material necessary to charge the collector; for, under the statute, the assessors lists were filed in that department, together with the receipts given by the collector to the assessor for lists of taxes delivered by him; and this, under the statute, was evidence to charge the collector with the amount of the taxes he was to collect and throw upon him the burthen of accounting for them. It is not pretended in the accounts that he did receive the amount so charged to him for taxes to be collected. On the contrary, the proof is clear that he did not receive it. This balance so found is no evidence that he received the money at all, but simply that he failed to account for so much of the taxes with which he was charged.

They have failed to show that he ever *received it*. How then can he be charged interest under that section?

But this, again, was one of the very things on which the accounting officers were to pass judicially or quasi judicially, and they have adjudged it.

That section of the Revised Statutes cannot be applied to this case.

It may be conceded, as is contended on the other side, that at common law interest is not a *penalty*. But we are not here under the common law. We are convened under the act of 1797, a most stringent law, and not to be carried a hair's breadth beyond its enactments. It is an act in derogation of common right. And section 3,624 is equally or more stringent. That act is, in its terms, a penal act. It adds "to the *sum or balance reported* to be due on the adjustment of his accounts * * the commissions of the delinquent, which *shall be forfeited*," &c.

It is a suit against sureties. Will it be contended on the other side that the sureties can be made responsible for these forfeited commissions? The condition of the bond is to discharge his duties "and that he shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come to his hands or possession." No orders or regulations of the Secretary of the Treasury have been given in evidence. Not a scintilla of proof is exhibited that he ever received a dollar, except what he has accounted for and paid over; only that he has not accounted satisfactorily for so much of the taxes placed in his hands for collection, and it is here sought to make his sureties responsible under a statute which, as clearly as if it had said so in so many words, was appliable to the officer alone, inflicting the punishment of forfeiture for his dereliction! Surely authorities need not be cited to how that the sureties cannot be liable under it.

But that too was a question for the accounting officers. They were to decide whether he had received the money and when he received it. And they decided, in substance, that he did not receive it, if the construction now sought to be put upon this statute is just, for in the event that he had received it, here was an imperative statute requiring them to *forfeit his commissions and charge him with interest, and they did neither.*

It won't do to say it was their fault, and that that does not excuse Dawson, and it can be corrected here. The logic won't suffice to find the facts nor to apply the law. It is not a question at common law, but under two stringent statutes.

The condition of the bond in this case has something more in it; it is * * truly and faithfully to execute and discharge all the duties of the said office according to law and that each and every deputy collector appointed by said collector * * shall truly and faithfully execute and discharge all the duties of such deputy collector, &c. Now a deputy collector may have collected this very sum and failed to pay it over. If the the collector did not receive it, surely, although he would be bound to make it good when "the balance was reported against him on the adjustment of his account," the accounting officers of the Treasury could not, under this law, forfeit his commissions and charge him interest from the time he received it, and make him and his sureties responsible for a "balance" thus made.

I have said the question in this case was definitely settled when the final account was certified, and this rests upon authoritative decisions made by Federal Courts.

In *ex parte Randolph*, 2 Brock, 448; BARBOUR, Justice, delivering the opinion of the court, at pages 473–4, speaking of the powers of the auditors of the Treasury, says, "after the auditor *shall once have settled an account of a public officer and closed it*, as in this case, is it competent for

him at an after time, upon allegation of error or omission, or for other cause to open it, restate it, and upon the account thus restated, to institute proceedings by warrant of distress? I think it is not." He then proceeds to examine the effect of such adjustments of account, considering the office as a special tribunal, with a limited power and peculiar jurisdiction, and at p. 474, says, further, "that whenever a special jurisdiction has once executed the power with which it was invested, their power is at an end as to the subject in relation to which it has been executed." And at p. 475. "Nobody doubts the power of the auditor to settle accounts of public officers from time to time, as they shall fail to account or pay any sums accruing after previous settlement; the objection is to resettling an account once settled, and which must have imported to have been a full and final settlement at the time when made." And at p. 487; Ch. J., MARSHALL, expresses his concurrence in this opinion.

In *United States* vs. *Jones*, 8 Pet., 375: 383. this court says: "The accounting officers of the Treasury act upon the account and give to the credits as entered their official sanction. The vouchers of an individual are submitted to these officers, and their decision has always been considered as conclusive upon the government, but not so as against an individual." P. 385. "In the performance of their official duty, the treasury officers act under the authority of law; their acts are public, and affect the rights of individuals as well as those of the government. In the adjustment of an account *they sometimes act judicially*, and their acts are all recorded on the books and files of the Treasury Department."

True, they exercise no part of the judicial power of the United States, (Ch. J. Marshall in the case cited from Brock), but they have a quasi judicial power, and their decisions are final and conclusive, except in cases provided by statute.

In *U. S.* vs. *Gaussen*, 19 Wall., pp. 211, 212, Mr. Justice HUNT, in delivering the opinion of the court, says:

"The act of March 3, 1797, proceeds upon the theory that the officers of the United States shall make up the account of every revenue officer; that it shall adjust the same on its books, and that the account thus stated and adjusted shall stand as and for the sum for which said officer shall be liable to the Government. This, no doubt, is subject to correction by such competent evidence as may be produced. In other words the statement is *prima facie* evidence only, not absolute and conclusive. In furtherance of this idea it is the duty of the Comptroller at once to institute suit for the recovery of the balance thus found and stated. A second result, and one indispensable to the existence of the theory is, that the books shall be evidence of the truth of the amounts thus stated and declared to be due to the United States. The act, therefore, provides that a transcript from these books and proceedings shall be admitted in evidence, and that, thereupon, the court is authorized to proceed to judgment and execution."

This must be understood, when speaking of the accounts as being "subject to correction by such competent evidence as may be produced," to refer to the provision in the statute for the admission of evidence in support of rejected claims and evidence to show that items charged as debits were not such as are embraced in the provisions of the statute, the account under the statute being otherwise conclusive upon the United States and the individual equally.

It is not thought necessary to enlarge this brief by further citations, but it is sufficient to say, that it is believed, every case in the Federal Courts proceed on the ground that the final settlement of an account by the officers of the Treasury Department, and the balance shown on such settlement so far as it relates to transactions between the Government and the individual, not however, embracing transactions through third parties, is plenary proof of those transactions and of the balance thus found. But it is no evi-

dence to charge the individual with any money derived from third parties, and if it contain such charges they may be eliminated at the trial, and the balance appearing due upon it may be reduced only by proof of the validity of claims which had been presented and rejected by the accounting officers, and which may be set up on the trial.

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